

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.68/2020

Shubham s/o Shyamsundar Kanani .vs. Ramesh s/o Gnyanchand Munot

AND

WRIT PETITION NO.69/2020

Sou. Mamta w/o Shyamsundar Kakani .vs. Nirmal s/o Mohanlal Munot

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Nilesh Borkar, Advocate for petitioner.
Mr. Anil Dhawas, Advocate for respondents.

CORAM : AVINASH G. GHAROTE, J.

DATE : 27.07.2022

Learned counsel for petitioner does not press the relief, insofar addition of party is concerned as he is praying in applications for amendment.

2. Heard Mr. Borkar, learned counsel for the petitioner. The petitions challenge the order dated 15.10.2019, whereby the application for amendment of the plaint has been rejected on the ground that the plaintiff wants to change the case. It is material to note that no relief is being sought to be added by way of the amendment and, therefore, the nature of the suit is not changed. What is being sought is to raise additional pleas regarding the original plea of cancellation of the sale deed.

3. Though, according to Mr. Dhawas, permitting the amendment would amount to permitting to raise contradictory pleas, that would be to the detriment of the plaintiff of which the defendant can always take advantage of. The stage, at which the application is filed, is before framing of the issues and the issues have now been framed, considering which, I do not see any reason not to allow the amendment.

4. Accordingly, the impugned orders are quashed and set aside. The applications for amendment are allowed, except to the extent of addition of party. No costs.

JUDGE

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